



Common Sense Initiative

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Business Impact Analysis

Agency Name: Department of Commerce, Division of State Fire Marshal-BUSTR

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Regulation/Package Title: UST Revolving Loan Fund

Rule Number(s): 1301:7-9-20

Date: _____

Rule Type:

- New
 Amended

- 5-Year Review
 Rescinded

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Regulatory Intent

1. Please briefly describe the draft regulation in plain language.

Please include the key provisions of the regulation as well as any proposed amendments.

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The regulation implements the UST Revolving Loan Fund (“RLF”), a voluntary program enacted by the 130th General Assembly. The RLF is designed to provide zero interest loans, with a maximum ten-year term, to political subdivisions for the purposes of initiating or completing the removal of underground storage tanks (“USTs”) from subdivision-owned properties or for completing corrective actions at UST sites within the subdivision’s boundaries for which no viable responsible person can be identified. R.C. 3737.883(H) directs the State Fire Marshal to adopt rules necessary for the administration and operation of the RLF.

As a result of the five-year review of the regulation, the State Fire Marshal-BUSTR intends to make only one, non-substantive, amendment. Paragraph (M)(1) of the rule is to be amended to reflect that federal laws mentioned in that paragraph are those versions in effect at the time the rule become effective.

2. Please list the Ohio statute authorizing the Agency to adopt this regulation.

R.C. 3737.883(H).

3. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?

If yes, please briefly explain the source and substance of the federal requirement.

No, this is an Ohio-specific initiative.

4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

Not applicable.

5. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?

The regulation is expressly required by the language of R.C. 3737.883(H) in order to give structure to the RLF program, including the content of loan applications, loan evaluation criteria, and loan award procedures, et al.

6. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?

The success of the regulation will be measured by the overall efficiency of the loan application and loan award processes.

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Development of the Regulation

7. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.

If applicable, please include the date and medium by which the stakeholders were initially contacted.

On April 9, 2019, BUSTR sent an e-mail to the following organizations:

- Ohio Township Association
- Ohio Petroleum Marketers and Convenience Store Association
- County Engineers Association of Ohio
- Ohio Environmental Council
- Mid-Ohio Regional Planning Commission
- County Commissioners Association of Ohio
- Ohio Municipal League
- Ohio Fire Chiefs Association

The e-mail attached the draft rule revision and requested comments by April 26, 2019.

8. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

No responses to the e-mail were received.

9. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

The regulation's purpose is simply to create a structure for the RLF program; scientific data was not necessary for its development.

10. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?

Because the RLF program was new in 2014, the agency used its best judgment to draft the regulation. An existing State Fire Marshal loan program, the Small Government Fire Department Services RLF, was used as a model, and was adapted to suit the Ohio underground storage tank program.

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11. Did the Agency specifically consider a performance-based regulation? Please explain.

Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.

This regulation is required to provide structure for the RLF program in terms of both loan applications and loan awards; a performance-based regulation is not a practical option.

12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

The State Fire Marshal, acting through BUSTR, is expressly directed by statute to promulgate and maintain this regulation. This agency has exclusive jurisdiction over petroleum USTs in Ohio; no other state agency has rules that address such USTs.

13. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

The RLF loan application and instructions for completing it will be posted to the State Fire Marshal website in the autumn, with a due date to be set at that time. Any loan applications received will be evaluated by agency personnel in accordance with the provisions of the regulation. All applications will be considered using identical procedures and criteria.

Adverse Impact to Business

14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:

a. Identify the scope of the impacted business community;

Because a loan under this program is available only to political subdivisions, BUSTR does not believe that the business community is impacted by this rule; this submission is being made to ensure compliance with the State's business support procedures.

b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance);

Political subdivisions that desire to apply for a loan under this program would likely have minor commitments of employee time to prepare the application. As noted above, businesses are not eligible for a loan.

c. Quantify the expected adverse impact from the regulation.

The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a “representative business.” Please include the source for your information/estimated impact.

BUSTR believes that a political subdivision’s employee time needed to prepare a loan application would be nominal. As noted above, businesses are not eligible for a loan.

15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

As described above, BUSTR does not believe that the business community is impacted by the regulation; this submission is being made to ensure compliance with the State’s business support procedures.

Regulatory Flexibility

16. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

As described above, BUSTR does not believe that the business community (regardless of size) is impacted by the regulation; this submission is being made to ensure compliance with the State’s business support procedures.

17. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

As described above, BUSTR does not believe that the business community is impacted by the regulation; this submission is being made to ensure compliance with the State’s business support procedures.

18. What resources are available to assist small businesses with compliance of the regulation?

As described above, BUSTR does not believe that the business community (regardless of size) is impacted by the regulation; this submission is being made to ensure compliance with the State’s business support procedures.